

**IN THE SUPREME COURT OF THE VIRGIN ISLANDS**

**IN RE:** ) **PROMULGATION No. 2019-002**  
 )  
**AMENDMENTS TO THE VIRGIN** )  
**ISLANDS RULES OF CIVIL** )  
**PROCEDURE.** )  
\_\_\_\_\_ )

**ORDER OF THE COURT**

**THIS MATTER** is before the Court pursuant to a January 31, 2019 transmittal from the Advisory Committee on Rules, which recommends that the Virgin Islands Rules of Civil Procedure be amended to include provisions for how to effectuate service upon the United States of America. Accordingly, it is hereby

**ORDERED** that Rule 4(j) of the Virgin Islands Rules of Civil Procedure **SHALL BE RE-DESIGNATED** as Rule 4(k), and the following new language inserted as the new Rule 4(j):

**(j) Serving the United States and Its Agencies, Corporations, Officers, or Employees.**

(1) *United States.* To serve the United States, a party must:

(A)

(i) deliver a copy of the summons and of the complaint to the United States attorney for the district where the action is brought—or to an assistant United States attorney or clerical employee whom the United States attorney designates in a writing filed with the court clerk—or

(ii) send a copy of each by registered or certified mail to the civil-process clerk at the United States attorney’s office;

(B) send a copy of each by registered or certified mail to the Attorney General of the United States at Washington, D.C.; and

(C) if the action challenges an order of a nonparty agency or officer of the United States, send a copy of each by registered or certified mail to the agency or officer.

(2) *Agency; Corporation; Officer or Employee Sued in an Official Capacity.* To serve a United States agency or corporation, or a United States officer or employee sued only in an official capacity, a party must serve the United States and also send a copy of the summons and of the complaint by registered or certified mail to the agency, corporation, officer, or employee.

(3) *Officer or Employee Sued Individually.* To serve a United States officer or employee sued in an individual capacity for an act or omission occurring in

connection with duties performed on the United States' behalf (whether or not the officer or employee is also sued in an official capacity), a party must serve the United States and also serve the officer or employee under Rule 4(e), (f), or (g).

(4) *Extending Time*. The court must allow a party a reasonable time to cure its failure to:

(A) serve a person required to be served under Rule 4(j)(2), if the party has served either the United States attorney or the Attorney General of the United States; or

(B) serve the United States under Rule 4(j)(3), if the party has served the United States officer or employee.

It is further

**ORDERED** that, pursuant Rule 37(a) of the Virgin Islands Rules of Appellate Procedure, the Bench, Bar, and the public **MAY FILE** comments with the Clerk of this Court no later than thirty (30) days from the date of entry of this Order. It is further

**ORDERED** that these amendments **SHALL GO INTO EFFECT IMMEDIATELY and** shall continue to remain in effect unless modified as a result of comments submitted under Rule 37(a).

**ORDERED** that copies of this order be directed to the appropriate parties.

**SO ORDERED** this 15<sup>th</sup> day of February, 2019.

/s/ Ive Arlington Swan  
**IVE ARLINGTON SWAN**  
Associate Justice

/s/ Maria M. Cabret  
**MARIA M. CABRET**  
Associate Justice

/s/ Rhys S. Hodge  
**RHYS S. HODGE**  
Chief Justice

**ATTEST:**  
**VERONICA J. HANDY, ESQ.**  
Clerk of the Court